



The Commonwealth of Massachusetts

Office of Campaign & Political Finance

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A0-21

Dennis J. Duffin
Director

October 25, 1982

Charles Abbott, Esquire
Nutter, McClennan & Fish
600 Atlantic Avenue
Boston, MA 02210

Dear Mr. Abbott:

Pursuant to M.G.L. c. 55, Section 3, this letter represents my formal opinion, per your request of October 18, 1982.

You have requested that I respond to a series of questions propounded in your letter. Prior to answering the specific questions raised, I will first address the larger issue presented, specifically the requirements imposed by M.G.L. c. 55 on corporate campaign activity relative to a referendum question.

In First National Bank v. Bellotti, 98 S. Ct. 1407, 435 U.S. 765, 55 L. Ed. 2d, the United States Supreme Court considered the issue of whether provisions of c. 55, Section 8 forbidding certain expenditures by banks and business corporations for the purpose of influencing the vote on a referendum question violates the First and Fourteenth Amendments. The court stated "...the question must be whether section 8 abridges expression that the First Amendment was meant to protect. We hold that it does." 435 U.S. at 776.

Pursuant to this holding, such banks and business corporations may expend funds for the purpose of influencing the vote on a Massachusetts referendum proposal. However, as you point out in your letter, such activity is subject to the reporting requirements of section 22.

The specific questions raised in your letter may be answered in the following manner, bearing in mind that these answers relate solely to the campaign finance activities of corporations relative to ballot questions.

- 1a) A Corporation may prepare Voter Education material and disseminate the same solely on the premises of such corporation, subject to the requirements of Section 22.
- b) A Corporation may prepare Voter Information material as part of the Corporation's advertisements for merchandise or service, and disseminate the same publicly, subject to the requirements of Section 22.

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- c) A Corporation may prepare Voter Information Material solely or principally addressed to the referendum question, and disseminate the same publicly, subject to the requirements of Section 22.

You have then asked whether a corporation which authorizes its name to be included in the support of Voter Information Material, the preparation and publication of which has been paid for by a political committee, is required to make any filing under c. 55. Section 22 does require that corporate treasurers report contributions made to political committees. Section 1 defines a contribution, in relevant part, as "...a contribution of money or anything of value..." In Opinion of the Attorney General, Nov. 6, 1980, which addressed the extent to which business corporations may be involved in Massachusetts campaign finance activity, it was stated that

"I am of the opinion that insofar as a corporation would enforce its right to the exclusive use of its name, trademark or logo against other entities, it grants a thing of value if it allows their use by a committee or other organizations."

While this opinion was drafted in response to questions concerning multi-candidate committees, and while this specific statement may be primarily concerned with the use of the corporate name within the name of the political committee, there is indeed some question as to whether the use of a corporate name by a political committee for other purposes may result in a corporate contribution to the referendum committee, and as such may trigger the Section 22 reporting requirements. This office is currently developing an administrative interpretation of the applicable provisions relative to this question, and I therefore must decline to provide you with a final opinion at the present time.

Your final question is whether a corporate executive employee or the corporation itself is required to make any filings under c. 55 if said executive employee authorizes his name to be included in Voter Information Material exclusively paid for by a political committee.

It is my opinion that neither the individual nor the corporation need report such activity under c. 55, for several reasons. This office has consistently held that an individual endorsement does not constitute a contribution, as that term is defined in c. 55, section 1. Furthermore, even if it did, c. 55 does not require that individuals report their contributions. The corporation need not report such an endorsement for two reasons. No contribution has occurred, and secondly, such activity by a corporate employee acting solely in his individual capacity is not attributable to the corporation by whom he is employed.

If I can be of further assistance, please do not hesitate to contact me.

Very truly yours,

Dennis J. Duffin

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Director